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OFFICE OF PETITIONS

In re Patent No. 8,039,585 :
Csaky et al. :
Issue Date: October 18, 2011 :
Application No. 10/588,884 : DECISION ON REQUEST FOR
Filed: August 9, 2006 : RECONSIDERATION OF
Attorney Docket No. : PATENT TERM ADJUSTMENT
41743.8005.US00 :
Title: THERAPEUTIC :
ADMINISTRATION OF THE SCRAMBLED :
ANTI-ANGIOGENIC PEPTIDE C16Y :

This is a decision on the "PETITION TO RECALCULATE PATENT TERM ADJUSTMENT" filed on December 19, 2011 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred ninety-three (1,393) days. This petition is properly treated under 37 CFR 1.705(d).

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

Patentees dispute the 519 day adjustment. Patentees contend a 909 day adjustment is required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, pursuant to 37 CFR §1.702(a)(1).

Patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated

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after the mailing of the notice of allowance. As such challenges to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Thus, Patentees' request for reconsideration of said 519 day reduction is dismissed as untimely.

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 23-3050 for consideration of the application for patent term adjustment under 37 CFR 1.705(d). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.



Charlema Grant
Attorney Advisor
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